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§ 2.18 How are fees assessed and collected?

(a) *Threshold for charging fees.* Except in those situations covered by § 2.16(b)(2), the bureau will not charge you if the fee is \$30 or less.

(b) *Notice of anticipated fees.* (1) Unless you have been granted a fee waiver or have previously agreed to pay all the fees associated with your request, or the anticipated fee is \$30 or less, the bureau will:

(i) Promptly notify you of the estimated costs and ask you to provide written assurance of payment of all fees or fees up to a designated amount; and

(ii) Give you an opportunity to modify your request at that time to reduce the fee.

(2) After the bureau begins processing your request, if it finds that the actual cost will exceed the amount you previously agreed to pay, the bureau will:

(i) Stop processing your request;

(ii) Promptly notify you of the higher amount and ask you to provide written assurance of payment; and

(iii) Give you an opportunity to modify your request to reduce the fee.

(c) *Advance payment.* (1) The bureau will require advance payment when the estimated fee is over \$250 and—

(i) You have never made a FOIA request to DOI requiring you to pay fees; or

(ii) You did not pay a previous FOIA fee promptly.

(2) If you have previously failed to pay a fee within 30 calendar days of the date of billing, the bureau will require you to:

(i) Pay the full amount owed plus any applicable interest penalties (see paragraph (g) of this section) and to make an advance payment of the full amount of the estimated fee of the new request; or

(ii) Demonstrate that you have, in fact, paid the prior fee.

(3) At the same time the bureau notifies you that an advance payment is due, it will give you an opportunity to modify your request to reduce the fee.

(d) *Resolving the fee issue.* The bureau will not start processing your request until the fee issue has been resolved (see §§ 2.8(b) and 2.12(b)). If the bureau seeks clarification from you about a

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fee issue and does not hear from you within 20 workdays, it will assume that you are no longer interested in this matter and will close the file on your request.

(e) *Billing procedures.* If you are required to pay a fee associated with your request, the bureau that processes your request will send you a bill for collection.

(f) *Form of payment.* You should submit a check or money order made payable to the “Department of the Interior” or the bureau furnishing the information. The term United States or the initials “U.S.” should not be included on the check or money order. Where appropriate, the official responsible for handling a request may require that payment by check be made in the form of a certified check. Some bureaus accept payment by credit card. Contact the bureau to determine what forms of payment it accepts.

(g) *Failure to pay fees.* The bill for collection or the response letter will include a statement that interest will be charged in accordance with the Debt Collection Act of 1982, as amended (31 U.S.C. 3717) and implementing regulations, if the fees are not paid within 30 calendar days of the date of the bill. This requirement does not apply if the requester is a state, local, or tribal government.

§ 2.19 When will bureaus waive fees?

(a) Fees for processing your request may be waived if you meet the criteria listed in paragraph (b) of this section and Appendix D to this part. The burden is on you to justify entitlement to a fee waiver. Requests for fee waivers are decided on a case-by-case basis. The fact that you have received a fee waiver in the past does not mean you are automatically entitled to a fee waiver for every request you may submit, because the essential element of any fee waiver determination is whether the release of the particular documents sought in the request will likely contribute significantly to public understanding of the operations or activities of the Government. The bureau will rely on the fee waiver justification you have submitted in your request letter. If you do not submit sufficient justification, your fee waiver request

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will be denied. The bureau may, at its discretion, communicate with you to request additional information if necessary. However the bureau must make a determination on the fee waiver request within the statutory time limit, even if the agency has not received such additional information. In certain circumstances, a partial fee waiver may be appropriate, if some, but not all, of the requested records are likely to contribute significantly to public understanding of the operations and activities of the Government.

(b) Bureaus will waive fees (in whole or part) if disclosure of all or part of the information is in the public interest because its release—

(1) Is likely to contribute significantly to public understanding of the operations or activities of the Government; and

(2) Is not primarily in the commercial interest of the requester.

(c) If a bureau denies your request for a fee waiver, it will notify you, in writing, of the following:

(1) The basis for the denial, including a full explanation of why your fee waiver request did not meet DOI's fee waiver criteria (see paragraph (b) of this section and Appendix D to this part);

(2) The name(s) and title(s) or position(s) of each person responsible for the denial;

(3) The name and title of the Office of the Solicitor attorney consulted; and

(4) A statement that the denial may be appealed within 30 workdays after the date of the denial letter to the FOIA Appeals Officer (see Appendix A to this part) under the procedures in § 2.30.

§ 2.20 When will bureaus grant discretionary fee waivers?

(a) A bureau may waive fees at its discretion if a request involves:

(1) Furnishing a copy of a document that the bureau has reproduced for free distribution;

(2) Furnishing one copy of a personal document (e.g., a birth certificate) to a person who has been required to furnish it for retention by the Department;

(3) Furnishing one copy of the transcript of a hearing before a hearing of-

ficer in a grievance or similar proceeding to the employee for whom the hearing was held;

(4) Furnishing records to donors with respect to their gifts;

(5) Furnishing records to individuals or private nonprofit organizations having an official, voluntary or cooperative relationship with the Department to assist the individual or organization in working with the Department;

(6) Furnishing a reasonable number records to members of the U.S. Congress, state, local, and foreign governments, public international organizations, and Indian tribes, when to do so without charge is an appropriate courtesy, or when the recipient is carrying on a function related to that of the Department and to do so will help to accomplish the work of the Department;

(7) Furnishing records when to do so is in conformance with generally established business custom (e.g., furnishing personal reference data to prospective employers of former Department employees); or

(8) Furnishing one copy of a single record in order to assist the requester in obtaining financial benefits to which he or she may be entitled (e.g., veterans or their dependents, employees with Government employee compensation claims).

(b) You cannot appeal the denial of a discretionary fee waiver.

§ 2.21 How will the bureau respond to my request?

(a) After all the criteria in §§ 2.8 and 2.10 have been met, the bureau will make a reasonable effort to search for records responsive to your request. In determining which records are responsive to your request, the bureau will include any records in its possession and control as of the date it begins its search. This will include searching for records in an electronic form/format, except where it would interfere significantly with the bureau's automated information systems.

(b) In response to your request, the bureau will do one of two things:

(1) Include the requested records with the response letter or notify you of how, when, and where the records will be made available; or